IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 106 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed : to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : of the judgement?

4. Whether this case involves a substantial question : of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

SANJAY DAHYABHAI AMIN PARTNER,DATALINK IMPEX PVT.LTD

Versus

C B I INVESTIGATING AUTHORITY (SPECIAL DIVISION)

Appearance:

MR G RAMAKRISHNAN for Petitioner

MR AMIT J. SHAH, for Respondent No. 1

Mr.M.A.Bukhari, A.P.P. for Respondent No. 2

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 04/09/2000

ORAL JUDGEMENT

1. Heard Shri G.Ramakrishnan, learned Counsel for the revisionist, Shri Amit J. Shah, learned Counsel for the C.B.I. - respondent No.1 and Shri M.A.Bukhari,

learned A.P.P. for the State of Gujarat - Respondent No.2.

2. The Revision is admitted. Service of notice after admission is waived by Shri Shah and Shri Bukhari.

3. The controversy involved in this revision is very short. The revisionist is not the accused. There is no dispute about this fact. He was a witness. At present there is no clinching evidence against him on which he can be arrayed as accused. Bill Book, delivery challan, file, delivery voucher book together with Rs.90,000/were seized from the revisionist by the C.B.I. The revisionist applied for release before the Sessions Judge (Rural), Ahmedabad, who partly allowed the application and directed that the Bill Book, Delivery Challan, File, Delivery Voucher Book shall be returned to the revisionist on his giving undertaking that he would produce the same as and when required by the Court at the trial and also on filing zerox copy of all these documents. The revisionist is not aggrieved from this portion of the order which is obviously in his favour. The revisionist, however, is aggrieved by rejection of his prayer for return of Rs.90,000/- seized from him during search and seizure. On inquiry from the learned Counsel for the C.B.I. and the learned A.P.P. it appears that at this stage this amount is not the case property. Consequently the Court below should not have felt any difficulty in directing return of this amount to the revisionist. Of course, in doing so the Court below should have insisted the revisionist to furnish personal and security bond and not Bank Guarantee inasmuch as the revisionist is not the accused and the amount is not the case property.

4. In view of above discussion the revision is allowed. The impugned order refusing to return the amount of Rs.90,000/- is set aside. The amount of Rs.90,000/shall be returned to the revisionist on his furnishing solvent surety for Rs.90,000/- a the personal bond in the like sum to the satisfaction of the Sessions Judge, Ahmedabad (Rural). Direct Service permitted.

sd/-

Date : September 04, 2000 (D. C. Srivastava, J.)

sas